IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

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|---|---|---|
| Rollie Seidel, | ) | |
| | ) | |
| Petitioner, | ) | **ORDER** |
| | ) | |
| vs. | ) | Misc. Case No. 03-05-17 |
| | ) | |
| Donald Redmann, | ) | |
| | ) | |
| Respondent. | ) | |

Before this Court is Petitioner Rollie Seidel's 28 U.S.C. § 2254 and application to proceed *in forma pauperis* (IFP). Specifically, petitioner asks the Court to waive the $5.00 fee required for the filing of his § 2254 petition. The resolution of petitioner's IFP request in necessary before the petition can be filed.

This Court has received a Report and Recommendation from the Honorable Karen K. Klein, United States Magistrate Judge, recommending that Petitioner's IFP request be denied. The Court has reviewed this report, along with the Defendant's record and agrees with the recommendation of Magistrate Judge Klein. Both the Petitioner's regular income, as well as his average account balance, clearly demonstrate the petitioner has the ability to pay the $5.00 fee necessary to file his claim. Given such, this Court adopts the Magistrate Judge's recommendation in its entirety. The Defendant's request to proceed IFP is hereby **DENIED**.

**IT IS SO ORDERED.**

Dated this 30th day of November, 2005.

Ralph R. Erickson, District Judge
United States District Court